

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

WALLACE T. RUTHERFORD, JR.,

3:15-cv-00639-SB

Plaintiff,

ORDER

v.

PERS CENTER SALEM OREGON, U.S.  
ATTORNEY TREATIES DEPARTMENT  
97205, OREGON JUSTICE  
DEPARTMENT TREATY ATTORNEYS  
97301, and OREGON TREASURY  
DEPARTMENT,

Defendants.

BROWN, Judge.

Magistrate Judge Stacie F. Beckerman issued Findings and Recommendation (#9) on July 8, 2015, in which she recommends this Court grant Plaintiff's Amended Application (#8) for Leave to Proceed *In Forma Pauperis* and dismiss Plaintiff's Complaint (#2) pursuant to 28 U.S.C. § 1915(e)(2)(B) without prejudice to Plaintiff's prosecution of the first-filed action, Case No.

3:15-cv-00476-SB, including the amendment of Plaintiff's Complaint therein to include any related claims or parties.

On August 28, 2015, Plaintiff filed a Notice of Appeal to the Ninth Circuit from Magistrate Judge Beckerman's Findings and Recommendation. The Magistrate Judge's Findings and Recommendation, however, is not a final appealable order, and, therefore, Plaintiff's Notice of Appeal is premature and does not deprive this Court of jurisdiction. *See Serine v. Peterson*, 989 F.2d 371, 372-73 (9th Cir. 1993). *See also Burnside v. Jacquez*, 731 F.3d 874, 875 (9th Cir. 2013). The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

Because no objections to the Magistrate Judge's Findings and Recommendation were timely filed, this Court is relieved of its obligation to review the record *de novo*. *See Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009). *See also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*). Having reviewed the legal principles *de novo*, the Court does not find any error.

#### **CONCLUSION**

The Court **ADOPTS** Magistrate Judge Beckerman's Findings and Recommendation (#9). Accordingly, the Court **GRANTS** Plaintiff's Amended Application (#8) for Leave to Proceed *In Forma Pauperis*

and **DISMISSES** this matter pursuant to 28 U.S.C. § 1915(e)(2)(B) **without prejudice** to Plaintiff's prosecution of the first-filed action, Case No. 3:15-cv-00476-SB.

IT IS SO ORDERED.

DATED this 10th day of September, 2015.

/s/ Anna J. Brown

---

ANNA J. BROWN  
United States District Judge